

Serial No.: 10/674,748

## REMARKS

### I. Status Summary

Claims 1-45 are pending in the present application. Claims 36-43 and 45 have been allowed, Claims 2-9, 15-22, 24, and 26-45 presently stand objected to, and Claims 1, 10-14, 23, and 25 presently stand rejected. Claims 2, 11, 12, 15, 18, 19, 23, 25, 31, and 44 have been amended. Claims 1, 13, and 14 have been cancelled. No new matter has been added by the amendments herein.

### II. Claim Objections

Claims 31 and 44 stand objected to under 37 C.F.R. § 1.75(c) as being in improper form because a multiple dependent claim cannot depend from any other multiple dependent claim. Each of Claims 31 and 44 have been amended to depend upon a single claim. Accordingly, applicant respectfully submits that the objection to Claims 31 and 44 under 37 C.F.R. § 1.75(c) should be withdrawn.

### III. Claim Rejection Under 35 U.S.C. § 112

Claims 18 and 19 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the claimed subject matter. Particularly, the Examiner states that the phrases "the number of data samples" and "the detected data sample peak" in Claims 18 and 19, respectively, lack antecedent basis. The phrases have been amended to correct

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antecedent basis by replacing "the" with "a". Accordingly, applicant respectfully submits that the rejection of Claims 18 and 19 under 35 U.S.C. § 112, second paragraph, should be withdrawn.

#### IV. Claim Rejection Under 35 U.S.C. § 102

Claims 1, 10-14, 23, and 25 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,931,079 to Peeters, hereinafter referred to "Peeters". This rejection is respectfully traversed.

Claims 1, 13, and 14 have been cancelled. Accordingly, applicant respectfully submits that the rejection of Claims 1, 13, and 14 under 35 U.S.C. § 102(e) should be withdrawn.

Claims 10-12 depend upon Claim 2. The Examiner states that Claim 2 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Claim 2 has been amended to include the features recited by cancelled Claim 1. Because Claims 10-12 depend upon Claim 2, Claims 10-12 include the features of Claim 2. Accordingly, applicant respectfully submits that the rejection of Claims 10-12 under 35 U.S.C. § 102(e) should be withdrawn and the claims allowed at this time.

Claims 23 and 25 depend upon Claim 15. The Examiner states that Claim 15 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base

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claim and any intervening claims. Claim 15 has been amended to include the features recited by cancelled independent Claim 13 and cancelled dependent Claim 14. Because Claims 23 and 25 depend upon Claim 15, Claims 23 and 25 include the features of Claim 15. Accordingly, applicant respectfully submits that the rejection of Claims 23 and 25 under 35 U.S.C. § 102(e) should be withdrawn and the claims allowed at this time.

#### V. Allowable Subject Matter

The Examiner states that Claims 2-9, 15-22, 24, 26-30, and 32-35 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. As stated above, Claim 2 has been amended to include the features recited by cancelled Claim 1. Therefore, Claim 2 and its dependent Claims 3-12 should be in condition for allowance.

As stated above, Claim 15 has been amended to include the features recited by cancelled independent Claim 13 and cancelled dependent Claim 14. Therefore, Claim 15 and its dependent Claims 16, 17, 23, 25, 26, 28, 29, and 31-33 should be in condition for allowance.

Claim 18 has been amended to include the features recited by cancelled independent Claim 13. Therefore, Claim 18 and its dependent Claims 19-22 and 24 should be in condition for allowance.

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CONCLUSION

In light of the above Amendments and Remarks, it is respectfully submitted that the present application is now in proper condition for allowance, and an early notice to such effect is earnestly solicited.

If any small matter should remain outstanding after the Patent Examiner has had an opportunity to review the above Remarks, the Patent Examiner is respectfully requested to telephone the undersigned patent attorney in order to resolve these matters and avoid the issuance of another Official Action.

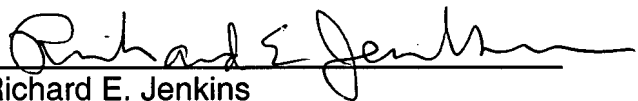
DEPOSIT ACCOUNT

The Commissioner is hereby authorized to charge any fees associated with the filing of this correspondence to Deposit Account No. **50-0426**.

Respectfully submitted,

JENKINS, WILSON, TAYLOR & HUNT, P.A.

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